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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
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10/596,563

06/16/2006

Michael Cornelis Van Beek

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05/27/2009

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P. O. Box 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

PUNNOOSE, ROY M

ART UNIT

PAPER NUMBER

2886

MAIL DATE

DELIVERY MODE

05/27/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/596,563 | VAN BEEK ET AL. | |
| | Examiner | Art Unit | |
| | ROY PUNNOOSE | 2886 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/16/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Arrangement of the Specification

1. As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading.

(a) TITLE OF THE INVENTION.

(b) CROSS-REFERENCE TO RELATED APPLICATIONS (if applicable).

(c) BACKGROUND OF THE INVENTION.

(1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

(d) BRIEF SUMMARY OF THE INVENTION.

(e) BRIEF DESCRIPTION OF THE DRAWING(S).

(f) DETAILED DESCRIPTION OF THE INVENTION.

(g) CLAIM OR CLAIMS (commencing on a separate sheet).

(h) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet and not more than 150 words).

2. The specification of the instant application is objected to because several headings and/or sub-headings are missing. Appropriate correction is required.

3. The abstract is objected to because it has more than 150 words. Appropriate correction is required.

Claim Objections

4. Claims 1-13 and 15-21 are objected to for the following reasons:

5. Claim 1 claims “an optical analysis system ... comprising a modulator element for modulating the detected weighed optical signal”. However the drawing shows that the light output by the light source is being modulated. The drawing does not show the detected signal

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being modulated as claimed. For examination purposes it is believed that applicant's intention is to modulate the light source as shown in the drawing. Appropriate correction is required.

6. Claims 2-13 and 15-21 are objected to because they have deficiencies similar to claim 1 as described above. Appropriate correction is required.

7. Claims 1-13 and 15-21 are objected to because of the usage of the terms "weighing" and "weighed". It would be more appropriate to use "weighting" and "weighted" in the claims (and the specification).

Drawings

8. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the **modulator element for modulating the detected signal** must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet"

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pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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12. Claims 1-13 and 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myrick et al (U.S. Patent 6,198,531 B1) in view of Nikitin et al (US 2004/0158592 A1).

13. Claims 1, 15 and 19 are rejected because:

A. Myrick et al (Myrick hereinafter) is admitted prior art (see specification of the instant application, pages 1 and 12). Myrick teaches all claim limitations except for a modulator element for modulating the detected weighed optical signal in an optical analysis system for determining amplitude of a principal component of an optical signal.

B. Nikitin et al (Nikitin hereinafter) teaches of modulating the detected weighed optical signal in an optical analysis system (see abstract and Figure 1a).

C. In view of Nikitin's teaching, it would have been obvious to a person having ordinary skill in the art (PHOSITA) at the time the invention was made to incorporate Nikitin's teaching into Myrick's system for the purpose of filtering out any ambient noise with a modulation frequency that is different from the frequency of the ambient noise.

14. Claims 2-13, 16-18 and 20-21 are rejected because in view of Myrick's and Nikitin's teachings, it would have been obvious to a PHOSITA to incorporate the features/limitations claimed in claims 2-13, 16-18 and 20-21 because it would have taken only ordinary engineering expedience to do so to obtain a desired result.

Contact/Status Information

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Roy M. Punnoose** whose telephone number is **(571)272-2427**.

The examiner can normally be reached on 9:30 AM - 6:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Tarifur R. Chowdhury** can be reached on **571-272-2287**. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Roy M. Punnoose/
Primary Examiner
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